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April 24, 2018

**VIA ECF**

Hon. Richard B. Farrer, U.S.M.J.  
United States District Court  
Western District of Texas  
San Antonio Division  
655 E. Cesar E. Chavez Blvd.  
San Antonio, Texas 78206

*Re: Alverson v. BL Restaurant Operations LLC No. 16 CV 00849 (OLG)(RBF)*

Dear Judge Farrer:

We represent Plaintiffs and the collective in the above referenced matter. We write to request clarification of the Court's April 9, 2018 Order setting the parties' discovery.

On November 15, 2017, the Court granted Plaintiffs' motion for conditional certification pursuant to 29 U.S.C. § 216(b). Dkt. No. 50.<sup>1</sup> Subsequently the Court approved Plaintiffs' proposed Notice to opt-in Plaintiffs. Dkt. No. 59. In the Notice approved by the Court, opt-in Plaintiffs are informed that, in order to participate in the matter, a signed Plaintiff Consent form "must be *postmarked by* (60 days from mailing of this Notice). If your signed Plaintiff Consent form is not *postmarked by* (60 days from mailing of this Notice), you may not be able to participate in the federal law portion of this lawsuit or share in a monetary recovery, if any." Dkt. No. 51-1, Exhibit A at 4 (emphasis added).

On April 9, 2018, the Court issued an order setting deadlines for the remainder of this action. Dkt. No. 65 ("Discovery Order"). In the Discovery Order, the Court set April 26, 2018 as the deadline for the Notice to be mailed and that "Consents by any class member to opt-in to conditional collective action pursuant to 29 U.S.C. § 216(b) *must be filed by June 25, 2018.*" *Id.* at ¶ 3 (emphasis added). As June 25, 2018 would be the final day of the 60 day notice period, pursuant to the notice approved by the Court, Opt-In Plaintiffs would still be eligible to participate in the lawsuit so long as their Notice is postmarked by June 25, 2018. Thus, Plaintiffs will receive valid consent forms after the deadline set in the Discovery Order making the two inconsistent. As such, Plaintiffs respectfully request that Discovery Order be revised to be consistent with the Notice in order to avoid confusion.

\* \* \*

We thank the Court in advance for its time and attention to this matter.

<sup>1</sup> On February 26, 2018, Judge Garcia overruled Defendant's objections to the Court's November 15, 2017 Order.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'RJP', is written over the closing text.

Ricardo J. Prieto

cc: Defendants' Counsel (via ECF)